REMARKS

The Examiner has reopened the prosecution in this matter, in response to Applicant's Appeal Brief. After mailing a Final Office Action on December 21, 2004, Applicant responded with a request that the status of FINAL be withdrawn. In an Advisory Action mailed May 20, 2005, the Examiner denied this request, which forced the Applicant to file an Appeal Brief. However, rather than substantively respond to Applicant's Appeal Brief, the Examiner now states that Applicant's prior request is persuasive.

In the present Office Action, the Examiner has rejected all claims, under 35 U.S.C. § 102(e), as allegedly anticipated by U.S. Patent 6,693,896 to Utsumi. For reasons set forth herein, Applicant respectfully disagrees and requests that the rejections be withdrawn.

112 Rejections

The Office Action rejected claims 10 and 11 under 35 U.S.C. § 112, second paragraph. Applicant has amended these claims in accordance with the Examiner's suggestion. Therefore, these rejections should be withdrawn.

Present Rejection is Inconsistent with Prior Admission by the Examiner

As an initial matter, Applicant respectfully submits that the present rejection is inconsistent with a prior admission by the Examiner. In this regard, the Examiner admitted that "Utsumi has not explicitly taught broadcasting the request" (see Office Action mailed 12-21-2004, p. 2, last line). Indeed, the rejection set forth in that Office Action relied on multiple references to form the rejections under 35 U.S.C. § 103(a). Now, the present Office Action has

rejected all claims under 35 U.S.C. § 102(e), alleging that Utsumi, in fact, explicitly teaches the claimed feature of "broadcasting the request across the network."

The Patent Office has consistently held that admissions are binding throughout the entire prosecution of a patent application. Typically, such admissions are relied upon by the Patent Office when an Applicant fails to immediately and adequately traverse a finding of Official Notice by an Examiner. In such situations, Applicants are deemed to have admitted whatever finding the Examiner set forth in the Official Notice, and once these admissions are deemed to have been made, such an admission cannot later be taken back.

Under the same authority of the Administrative Procedure Act (5 U.S.C. § 500 et seq.) which empowers the PTO to rely on such admissions, Applicants should equally be able to rely on admissions by the PTO.

In addition to this admission retraction, Applicant notes that the present application of Utsumi to the pending claims is different that the prior applications of Utsumi. For example, the first element of claim 1 calls for "generating a request for a component..." The present Office Action cites Col. 9, lines 51-57 of Utsumi as disclosing this feature. In contrast, the FINAL Office Action of December 21, 2004, cited Col. 2, lines 4-5 of Utsumi as allegedly disclosing this feature. Similarly, almost all other applications of Utsumi to the claimed features are now different than they have been applied previously.

For at least these reasons, Applicant respectfully submits that the present rejection (based on Utsumi) is improper, and for the same reasons that admissions by Applicants are binding throughout the prosecution of an application, the prior admissions by the Examiner should be binding upon the PTO as well.

Furthermore, in responding to the FINAL Office Action and then in an Appeal Brief, Applicant sets forth significant substantive distinctions of the claimed invention over the cited teachings of the Utsumi reference. The present Office Action, however, has failed to respond to Applicants' remarks, or address any of Applicants' distinctions. Instead, the present Office Action has only set forth its new rejections. Therefore, Applicant assumes that the Examiner agrees with all previous distinctions set forth by the Applicants.

Discussion of Substantive Rejections

Notwithstanding the foregoing, Applicant will now address the substantive rejections and application of Utsumi, as they are now embodied in the presently outstanding Office Action.

Fundamental Distinction of All Claims Over Utsumi

The Office Action has rejected all claims as allegedly anticipated by Utsumi. Applicant respectfully disagrees. The summary of the present application states:

> The present invention is broadly directed to a system and method for accessing software components, interfaces, or resources in a distributed network environment. ***A distinctive feature of the invention is its ability to locate such components, interfaces, or resources based upon certain specified attributes, and without having prior knowledge of the address or location of the component, interface, or resource.***

(*Emphasis added.*) This stated essence of Applicant's invention cannot be achieved in the system of Utsumi. This broadly-stated objective or feature is achieved, in certain embodiments, by the broadcast (over a network) of a request for a component that has at least one attribute specified in the request. In addition to other features, every independent claim of the present application embodies at least the three features/concepts, which are underlined above. The

rejections applied by the Office Action, however, have either blurred or ignored these features. For at least this reason, the rejections are misplaced and should be withdrawn. Further, the system disclosed in Utsumi relates to the reservation of a resource at the request of a user. The system of Utsumi, as described, requires *a priori* knowledge by the user of the resources of the system. In contrast, and as noted above, the presently-pending claims define systems and methods which have the "ability to locate such components, interfaces, or resources based upon certain specified attributes, ***and without having prior knowledge of the address or location of the component, interface, or resource.***"

Further still, the system of Utsumi relates to the reservation of a resource at the request of the user. In contrast, the claimed invention relates to the identification of available components and not necessarily the reservation of the components. As an example, the specification describes a scenario in which a user specifies the component of a network printer having the attribute of color printing capability. In response to such a broadcasted request, the relevant network printers would reply to the request. The service consumer (e.g., user's system) would then have an identification of the network printers capable of printing in color. At this point, however, none of the printers have been allocated to process a print job (e.g., these resources have not been reserved, but merely identified).

Another distinguishing feature of embodiments of the present application relate to the locating of resources (or components) on a network, without having *a priori* knowledge. Applicant has amended independent claims 1, 20, and 21 to clarify such embodiments. Further, Applicant has amended claims 1, 12, 20, and 21 to specify that the "response," communicated from the service provider in response to the request from the service consumer, "indicates an [availability or location] of the requested component associated with the service provider." In

the system of Utsumi, the user actually schedules a resource. In order to perform this scheduling operation, the user must have *a priori* knowledge of the resource being scheduled. In contrast, the embodiment specified by claims 1, 12, 20 and 21 broadcasts a request (over a network) for an identification of components that embody a specified attribute. Then, in response to this broadcast request, one or more service providers communicate a response, which "indicates an [availability or location] of the requested component..." Thus, the claimed system and operation specified a structure/method for locating resources/components that embody certain specified attributes. Scheduling of these resources may be done later. Significant, with respect to these claims, the identification of (or locating) such components is quite different that the scheduling of the components (as is taught by Utsumi).

For at least these fundamental reasons, the application of Utsumi to the pending claims is misplaced and should be withdrawn.

Notwithstanding the foregoing global distinction that is applicable to all claims, each independent claim will be individually discussed below.

Claims 1-11

Turning now to the rejected claims, the Office Action rejected independent claim 1 as allegedly anticipated by Utsumi. For at least the reasons set forth below, Applicant respectfully disagrees.

Independent claim 1 recites:

> 1. In a ***distributed computer networked system*** having at least one service consumer and at least one service provider, a method for locating a remote software component by a service consumer comprising:
>
> generating a request for a ***component having at least one specified attribute***;

> ***broadcasting*** the request across the network;
> receiving the request at a service provider;
> ***comparing at least one specified attribute of the received request with component attributes of the service provider***; and
> communicating a response to the requesting service consumer, ***wherein the response indicates a location of the requested component associated with the service provider.***

(*Emphasis added.*) Claim 1 patently defines over the cited art for at least the reason that the cited art fails to disclose the features emphasized above.

In forming the rejection, the Office Action has cited disjoint and unrelated features of Utsumi, and in doing so has ignored features of the claim. For example, elements of claim 1 recite: "generating a ***request*** ...", "broadcasting ***the request*** ...", "receiving ***the request*** ...", and "comparing ... the ***received request*** ..." As emphasized above, each of these elements is linked and interrelated to the surrounding elements. However, the Office Action has used very disparate teaching of the Utsumi patent to form its rejection. In this regard, the Office Action cited col. 9 as teaching the "generating a request..." feature, then jumped to col. 18 for allegedly teaching the "broadcasting the request ..." feature. Then, the Office Action jumped back to col. 11 as allegedly teaching the "receiving the request ..." feature, and col. 17 as allegedly teaching the "comparing ... the received request ..." feature. This alone reflects an apparent lack of applicability of the cited teachings of the Utsumi patent.

More significantly, claim 1 recites: "comparing at least one specified attribute of the received request with component attributes of the service provider." The Office Action cites col. 17, lines 26-28 and column 9, lines 6-33 and 51-57 as teaching this feature. Applicant disagrees. In fact, these cited portions of Utsumi actually state:

Next, a flexible set-up mechanism will be explained. In the ASP, resources can be reserved in various forms to use resources efficiently or to make resource reservation which matches with a request from an application.

(Col. 17, lines 26-28).

FIG. 5 shows examples of resource reservation parameters as predetermined data necessary for the client I/F compatible with the Internet TV and Internet VoD. These resource reservation parameters are required for network resource reservation when receiving information concerning respective programs to be provided through the Internet TV and Internet VoD. For example, when a client terminal makes a connection with a server in the service providing side, the parameters are transmitted from the server side and stored as a client setting file 54A in the database 54 of the client terminal.

In the example of FIG. 5, set as resource reservation parameters are a service number for specifying the content of a service, a program title which can be provided as a service, a server address such as a broadcasting station address of Internet TV or Internet VoD (e.g., an IP address of a network layer), a port number which specifies a service in a server (e.g., a TCP/UDP port number of a transport layer), a transfer rate for specifying a band resource required on a network when providing a service, a read/write size with respect to a socket as a unit of data read/written from/into OS (operating system) by an application of a serve, a socket buffer size as the size of a buffer for a socket, maximum and minimum transfer sizes of data (in units of bytes) transferred on the network, a token packet size as one of parameters in a so-called token packet algorithm (e.g., the maximum data amount which can be outputted at once onto the network), and a multicast IP address and port number which are used for executing multicast providing.

...

Returning to FIG. 4, program titles among resource reservation parameters are displayed on the program selection buttons 101. Accordingly, a user (or client terminal) selects a button displaying a desired program title from the program selection buttons 101 and can then receives a service of video data and audio data corresponding to the selected program through the Internet TV or Internet VoD.

(Col. 9, lines 6-33 and lines 51-57)

As can be readily verified from even a cursory review of this cited portion of Utsumi, there is no proper teaching of the claimed "comparing at least one specified attribute of the received request with component attributes of the service provider." For at least this reason, the rejection is misplaced and should be withdrawn.

As a separate and independent basis for the patentability of claim 1, Applicant has made certain clarifying amendments to this claim, which clearly define over the teachings of Utsumi. For example, the preamble is amended to clarify that the embodiment is a method for "locating" a remote software component. As described in the specification, embodiments of the invention relate to the detection or identification of equipment (or components) on a network that contain or embody certain specified attributes (e.g., printers that are capable of color printing). This is clearly different than the scheduling of Utsumi (which system of Utsumi requires *a priori* knowledge of the components on the network. Further, the last element of claim 1 has been amended to specify that the response "indicates a location of the requested component associated with the service provider." The system of Utsumi teaches the scheduling of a resource, and thus is devoid of any relevant teaching of a "response" that "indicates a location of the requested component." In this regard, the location may be specified as an IP address. Support for this amendment is provided in the specification in various locations, including page 17, line 24. Therefore, no new matter is introduced by the amendment.

Further still, the undersigned submits that the Office Action has characterized Figure 1 of Utsumi as disclosing the claimed "distributed computer networked system" (Office action, paragraphs 14 and 15). However, the network disclosed in Figure 1 of Utsumi is an ATM network, which the specification describes as "an IP (Internet Protocol) network using an ATM (Asynchronous Transfer Mode), a connectionless IP packet needs to be transferred by a virtual connection ... as a connection-oriented technique which guarantees the quality." (Col. 1, lines 28-33). A virtual connection (with endpoints defined by the AMInet routers 21 and 23), however, is inconsistent with a distributed network, allowing for the "broadcast" of a message, as

defined by claim 1. For at least this additional reason, the application of Utsumi to claim 1 is misplaced and should be withdrawn.

As a separate and independent basis for the patentability of claim 1, the Office Action alleges that Utsumi teaches generating a request for a component having at least one specified attribute. Applicant respectfully disagrees. Instead, Utsumi describes input means for inputting a command based on an operation by a user. In applying this teaching to the relevant element of claim 1, the Office Action apparently equates "a command" with the claimed "request." Although the Office Action does not clearly apply these teachings, it is presumed that the disclosed "operation" is being applied to equate to either the claimed "component" or the claimed "attribute." Either way, it is clear that a claimed feature is missing from the cited teaching of Utsumi (as the disclosed "operation" cannot be both a "component" and an "attribute"), and for at least this reason the rejection is misplaced and should be withdrawn.

Notwithstanding, the undersigned respectfully submits that the cited teachings of Utsumi are significantly different than the claimed features of the present invention, and that the rejection generally embodies a rationale that is fundamentally misplaced. In this regard, the present application specifically defines "components" to include "services, interfaces, resources, code segments, etc." (page 1, lines 19-21). Likewise, "attributes" are used to specify a component. By way of illustration, one example presented in the present application was a "request" by a computer for a "component" (resource) of a network printer having an "attribute" of color printing. In that example, the color attribute was used to specify the printer component that was the subject of the generated request. Simply stated, the cited teaching of Utsumi (*i.e.*, "input means for inputting a command based on an operation by a user") cannot be applied (even with

the broadest possible application) to disclose or suggest such a claimed feature. For at least this additional reason, the rejection is misplaced and should be withdrawn.

For at least the foregoing reasons, the rejection of claim 1 should be withdrawn. For at least the same reasons the rejections of claims 2-11, which depend from claim 1, should be withdrawn as well.

Claims 12-19

The Office Action rejected independent claim 12 as allegedly anticipated by Utsumi. Claim 12 includes salient features of "means for generating a request ... for a component having at least one specified attribute", "means for broadcasting the request across the network" and "means for comparing the at least one specified attribute of the received request with component attributes of the service provider." Similar features were discussed in connection with the rejection of claim 1. Furthermore, the Office Action merely referenced its rejection of claim 1 as applying to claim 12. Therefore, Applicant submits that the rejections of claim 12 should be withdrawn for at least the same reasons as the rejections of claim 1 (set forth above).

With regard to dependent claims 13-19, the rejections to those claims should be withdrawn insofar as they depend from claim 12, and the rejection of claim 12 should be withdrawn.

Claim 20

The Office Action rejected independent claim 20 as allegedly anticipated by Utsumi, for the same reason as claim 1 (Office Action, paragraph 24). Therefore, Applicant submits that the rejection of claim 20 should be withdrawn for at least the same reasons as claim 1.

Claim 21

Finally, the Office Action rejected independent claim 21 (paragraph 25) as allegedly anticipated by Utsumi.

> 21. In a distributed computer networked system having at least one service consumer and at least one service provider, a method for ***locating*** remote software components by a service consumer comprising:
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> generating a request for an identification of a component having at least one specified attribute;
>
> broadcasting the request across the network;
>
> receiving the request at each of a plurality of service providers on the network;
>
> ***comparing, at each of the plurality of service providers, the at least one specified attribute of the received request with component attributes of the service provider to identify a matching component;*** and
>
> communicating, from each of the plurality of service providers, a response to the requesting service consumer, ***wherein the response indicates an identification of the requested component associated with the service provider.***

Claim 21 includes salient features of "generating a request for a component having at least one specified attribute", "broadcasting the request across the network" and "comparing, ***at each of the plurality of service providers on the network,*** the at least one specified attribute of the received request with component attributes of the service provider." These features were discussed in connection with the rejection of claim 1, and therefore the rejection of claim 21 should be withdrawn for at least the same reasons as claim 1. In addition, claim 21 specifically provides that the "comparing" takes place "at each of the plurality of service providers on the network," and further defines the "communicating, from each of the plurality of service providers, a response to the requesting consumer." These added features are not disclosed in Utsumi. In this regard, the requested resource (in the system of Utsumi) will be allocated by only

one provider (not a plurality of providers). As such, Utsumi cannot be properly applied to claim 21, and the rejection of claim 21 should be withdrawn.

Traversal of Official Notice and Rejections of claims 11 and 16

The Office Action takes Official Notice "that Java is a common programming language that programmers use to implement many software modules." Then, the Office Action seems to use this alleged fact to support the motivation that is required for the obviousness rejection of claims 11 and 16.

Applicant hereby traverses this rejection and the Official Notice. With regard to the Office Action's declaration of Official Notice, Applicant traverses this because the Office Action has not clearly defined specifically what it is taking notice of. For example, the Office Action alleges (as fact) that Java is a "common" programming language. However, the Office Action has not defined what it means by common, and therefore, has failed to define the extent or scope of the Official Notice. Likewise, the Office Action takes Official Notice that "programmers use [Java] to implement many software routines" without defining what it means to "use" Java, what "implement" means, or to quantify "many." For at least these reasons, the Official Notice is indefinite and incomplete, and is respectfully traversed.

Further, Applicant traverses the rejections of claims 11 and 16, as the Office Action seems to rely on its Official Notice that Java is a "common" programming language, to complete these rejections. In this regard, the Office Action seems to equate "commonality" with the legal standard for "obvious." That is, the Office Action seems to state that if something is common, then it is obvious. Such a position is, however, contra to well established Federal Circuit

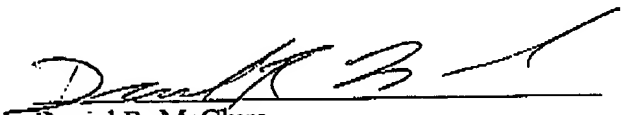
precedent for rejections under 35 U.S.C. § 103, and Applicant traverses the rejections of claims 11 and 16 on this additional basis.

CONCLUSION

In view of the foregoing, it is believed that all pending claims are in proper condition for allowance. If the Examiner believes that a telephone conference would expedite the examination of the above-identified patent application, the Examiner is invited to call the undersigned.

No fee is believed to be due in connection with this amendment and response to Office Action. If, however, any fee is believed to be due, you are hereby authorized to charge any such fee to Hewlett-Packard Company's deposit account No. 08-2025.

Respectfully submitted,

By: 
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